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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,456	11/17/2000	Martin Derleth	027/49351	5099

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EXAMINER

MORROW, JASON S

ART UNIT PAPER NUMBER

3612

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/714,456

Applicant(s)

DERLETH ET AL.

Examiner

Jason S. Morrow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

- 1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.**

#### ***Claim Rejections - 35 USC § 102***

- 2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:**

A person shall be entitled to a patent unless –

- 3. Claims 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Nonaka et al. (4,559,868).**

Nonaka discloses a passenger motor vehicle comprising a vehicle dashboard assembly disposed behind a windshield in front of a vehicle passenger space, the dashboard assembly including a housing part (21), provided with fastening structure (the arm which fits into the recess provided by 33) and a cover part having slotted recesses (33) therein for receiving the fastening structure when the cover part is installed in the vehicle, wherein the housing part is mounted to the vehicle body and the cover part is thereafter detachably fixed to the housing part following installation of the windshield so as to be removable from the housing part to provide for disassembly and repair, and replaceable on the housing part following the repair, even though the windshield is installed already (Note that although Nonaka does not teach this function, the structure of the claim is shown by Nonaka and appears to be capable of performing the function. Applicant has provided no evidence that the structure claimed by Nonaka cannot function in the claimed manner). Nonaka also discloses that the vehicle has a windshield, but fails to specifically state that the vehicle comprises a cross member to which the windshield is mounted.

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One of ordinary skill in the art would recognize that a cross member upon which to mount a windshield is a necessary structure in any vehicle having a windshield, and is therefore an inherent feature in any such vehicle. The housing part is an upper part of a housing of a heating and/or air conditioning system, and the fastening structure includes arms (the arm which fits into the recess provided by 33) which are directed towards vehicle sides and together with the cover part, form at least one air channel (48) when the cover part is installed in the vehicle.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nonaka et al. (4,559,868) in view of Gray (5,992,876).

Regarding claims 18 and 21, Nonaka fails to disclose the specific materials used in the construction of the cover portion.

Gray teaches the use of a multi-layered plastic molded part, which includes a substrate comprising EPP foam and a sound absorbing layer (see column 4, lines 40-50, polyvinyl chloride foam and EPP bilaminates).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a multi-layered plastic molded part which includes a substrate comprising EPP

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foam and a sound absorbing layer, as taught by Gray, as it provides a rigid panel with insulating (both thermal and acoustic) properties as well as additional safety for the passengers of the vehicle in the event of collision.

6. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nonaka et al. in view of Inoue et al.

Nonaka et al. discloses all the limitations of the claim, as applied above, except for the step of detachably connecting the cover part from the housing part even though the windshield is installed, performing a repair, and subsequently connecting either the cover part or another cover part to the fastening structure.

Inoue et al. discloses the step of detachably connecting the cover part from the housing part even though the windshield is installed, performing a repair, and subsequently connecting either the cover part or another cover part to the fastening structure.

It would have been obvious to one of ordinary skill in the art to modify a method for making a passenger vehicle, such as that disclosed by Nonaka et al., to include the step of detachably connecting the cover part from the housing part even though the windshield is installed, performing a repair, and subsequently connecting either the cover part or another cover part to the fastening structure, as taught by Inoue et al., in order to perform maintenance on the vehicle in a more efficient manner.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nonaka et al. and Inoue et al., as applied to claims 19 and 20 above, and further in view of Gray.

Nonaka et al. and Inoue et al. fail to disclose the specific materials used in the construction of the cover portion.

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Gray teaches the use of a multi-layered plastic molded part, which includes a substrate comprising EPP foam and a sound absorbing layer.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a method of making a vehicle passenger motor vehicle, such as that above, to use a multi-layered plastic molded part which includes a substrate comprising EPP foam and a sound absorbing layer, as taught by Gray, as it provides a rigid panel with insulating (both thermal and acoustic) properties as well as additional safety for the passengers of the vehicle in the event of collision.

#### ***Response to Arguments***

8. Applicant's arguments with respect to claims 16-21 have been considered but are essentially moot in view of the new ground(s) of rejection.

The argument presented by the Applicant which is still relevant is that regarding "fasteners". Applicant has argued that the structure referred to by the Examiner in the rejections does not constitute a "fastener". The Examiner respectfully disagrees. According to Webster's II New Riverside Dictionary, to fasten is to "become attached, fixed, or joined". While the structure referred to by the Examiner is not the sole fastening means of the invention it does assist in joining the parts together by keeping the parts from moving in at least one direction relative to each other. Thus, it can be considered a "fastener".

*Conclusion*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (703) 305-7803. The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 26, 2004

Jason S. Morrow  
Examiner  
Art Unit 3612

  
**JASON MORROW**  
**PRIMARY PATENT EXAMINER**

8/30/04